

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA, :

Plaintiff,

Case No. 3:08-cr-116
Also Case No 3:13-cv-403

-vs-

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

KENNETH VAUGHN,

Defendant. :

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #386), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

It is hereby ORDERED that the Motion to Vacate be dismissed with prejudice because (1) the United States complied with Alleyne in its handling of this case the required facts of the mandatory minimum sentence were charged in the indictment and admitted by the Defendant and (2) in any event Alleyne does not apply retroactively to cases decided before June 17, 2013.

December 31, 2013.



Walter Herbert Rice
United States District Judge